

CRAIN, CATON & JAMES

ATTORNEYS AND COUNSELORS

3300 TWO HOUSTON CENTER

HOUSTON, TEXAS 77010-1079

(713) 658-2323

ALLEN JAMES
DAVID L GRIFFIS PC
THOMAS B GREENE III PC
PATRICIA HAIR
FRANK G HARMON III
CHRIS A LORENZEN
ROBERT J MALONE
ROBERT E MORSE III
P J MURPHEY HARMON
CHARLES D MAYNARD JR

ROBERT F MAHER
A BRANTON KOTCH
VANCE CHRISTOPHER
WILLIAM S RHEA III
JEFFREY I HOROWITZ

CABLE ADDRESS
CRAINCATON-HOU

TELEX
77-5133

TELECOPIER
(713) 658-1921

FRANK E CATON
(1929-1984)

NEWTON M CRAIN JR
(1914-1983)

August 10, 1988

Congressman Bill Archer
515 Rusk
Room 7501
Houston, Texas 77002

Re: EPA Administrative Order - Docket No. CERCLA -
Region VI - 05-88

Dear Congressman Archer:

My client, International Distribution Corporation ("IDC"), a small warehouse business operating at 7198 Mykawa Road in Houston, Texas, is in dire need of your help in negotiating with the U.S. Environmental Protection Agency in connection with the captioned administrative matter. Mr. Douglas Walt, President and owner of IDC, lives in your district at 8927 Windside Drive, Houston, Texas 77040.

The captioned EPA proceeding was initiated under the Superfund law to deal with ninety-one orphaned chemical drums which were abandoned at IDC's warehouse by their legal owner. The drums are now stored in a secured area where they do not pose any immediate threat to the public or the outside environment, and no release of hazardous substances to the environment has been documented.

IDC came into possession of the drums in March, 1986 in the normal course of its warehouse business activities, picking up the drums from another warehouse at the request of the drum owner, SCI Technology & Equipment Ltd. of New York. IDC was told at the time that the drums were chemical product intended for export; however, IDC subsequently found out that the drums were chemical junk, that the New York owners have been convicted of criminal fraud in connection with export sales of adulterated chemicals and that EPA itself had been earlier involved with the drums beginning



209533

1/1/5E/@4239101

with their shipment from the point of manufacture in Colorado at the Colorado Organic Chemical Company (itself a Superfund site) and continuing on with response to a spill during shipment at a Houston railhead and subsequently at the other warehouse from which IDC obtained the drums. IDC was never paid for its transportation or storage services and, when IDC found out about the true nature of the drums, the Texas Water Commission and the EPA were contacted by IDC in the fall of 1986 for their assistance.

Over the last two years EPA has sent a team to the warehouse to test for air emissions from the drums and on June 22, 1988 issued the captioned administrative order against IDC and its landlord, ordering them under the strict liability provisions of Superfund to carry out and pay for proper drum removal and disposal activity. IDC, for its part, has diligently sought out all available sampling information concerning the drum contents and has contacted waste disposal companies for bids concerning proper legal disposal. The lowest bid to date, assuming the contents of the drums to be as previously manifested, is \$22,000.00.

IDC recently filed a "mixed funding" request with Region VI of EPA seeking to have the \$8.5 billion Superfund pay for at least 50% of the cost of drum removal and disposal, citing legal and equitable factors identified in EPA guidance documents concerning such cost sharing requests. For background purposes, we enclose a copy of IDC's mixed funding petition, EPA - Region VI's recent response and our follow-up letter requesting reconsideration.

As detailed in the enclosed documents, we believe that it is only fair that EPA, which itself was involved in the past routing and handling of the drums (notably having failed to insure their proper disposition), meet IDC half way and use a small portion of the multi-billion dollar Superfund to resolve their environmental concern and to partially remediate the dilemma facing an innocent small business.

Specifically, we would ask that your office contact Robert E. Layton, Jr., Regional Administrator for Region VI of EPA in Dallas, Texas, in order to express what we would hope to be your serious concern about the present inequities facing IDC. Our impression is that EPA does not want to go to the bureaucratic trouble of authorizing partial funding

Congressman Bill Archer
August 10, 1988
Page -3-

of the drum removal activities because the amount involved to them seems relatively minor. However, what may be a modest request to EPA is a major financial problem for a small businessman. At this point, it is important to note that IDC is not asking to be absolved from all costs but instead is only asking for a reasonable amount of government assistance in recognition of its cooperative efforts and equitable position.

Sincerely,

CRAIN, CATON & JAMES

By: 

Robert E. "Robin" Morse, III

Attorneys for International
Distribution Corporation

REM/glm

Enclosures